

Cooperatives and Condominiums  
Charter Sections: 2601(8)  
2604(a)(1)(b)

Advisory Opinion No. 94-27

The Board has received a request for an opinion from a public servant who holds a high-level staff position in City government as to whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, he may continue to serve on the board of directors of the cooperative corporation (the "corporation") which owns the building where he resides. For the reasons stated below, the public servant may continue serving on the corporation's board of directors.

Background

A public servant who is neither an agency head nor an employee of a City agency which has direct dealings with cooperative corporations or residential buildings is a member of the board of directors of the cooperative corporation which owns the building in

which he resides. The public servant does, however, hold a high-level staff position in City government. While the public servant does not have any direct dealings with cooperative corporations or residential buildings, he might, because of the nature of his City position, sometimes be required to deal with related issues. The public servant has advised the Board that, if he were to continue serving on the corporation's board of directors, he would not communicate, directly or indirectly, with any official or agency in City government on behalf of the corporation.

#### Discussion

Charter Section 2604(a)(1)(b) provides that no public servant shall have an ownership interest in or a position with a firm which is engaged in business dealings with the City; however, transactions involving a public servant's residence are excluded from the definition of "business dealings" with the City. See Charter Section 2601(8). See also Advisory Opinion No. 92-7, which provides that, except for certain restrictions discussed below, a public servant may serve on the board of directors of the cooperative

corporation which owns the apartment where he or she resides.

Advisory Opinion No. 92-7 prohibits agency heads and other high-level public servants from serving on the boards of directors of cooperative corporations if the corporations are subject to the regulatory authority of the public servants' City agencies. Since the public servant in this case has no official duties which directly affect cooperative corporations or residential buildings or their regulation by the Department of Finance, the Department of Buildings or other City agencies, his service on the corporation's board of directors would be consistent with Advisory Opinion No. 92-7.

In addition to the foregoing, Advisory Opinion No. 92-7 prohibits public servants who serve on the boards of directors of their cooperative corporations from communicating, directly or indirectly, with their City agencies on behalf of the corporation. See Charter Section 2604(b)(3), which provides that a public servant may not use his or her official City position to obtain a private advantage for the public

servant or for a person or firm with which the public servant is associated. Since the public servant has represented that he would contact neither his City agency nor anyone in City government on behalf of the corporation, his service on the board of directors would not be a conflict of interests.

Conclusion

Since the public servant's duties are sufficiently removed from the regulation of private cooperative corporations and related issues, and the public servant has represented that he would not contact anyone in City government about the corporation or related issues, it is the Board's opinion that it would not violate Chapter 68 for the public servant to continue serving on the corporation's board of directors, provided that he continues to act in accordance with Advisory Opinion No. 92-7.

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